

DORMAN WILLIAM WHITTON

APRIL 23, 1958.—Committed to the Committee of the Whole House and ordered to be printed

Mr. CRETELLA, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 9608]

The Committee on the Judiciary, to whom was referred the bill (H. R. 9608) for the relief of Dorman William Whittom, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to authorize and direct the Secretary of the Treasury to pay Dorman William Whittom, of Anacortes, Wash., the amount certified to that Secretary by the Foreign Claims Settlement Commission as the amount which would have been payable to the same Dorman William Whittom as detention benefits under section 5 (a) through section 5 (e) of the War Claims Act of 1948, as amended, had a claim been filed for those benefits in the time limited by law.

STATEMENT

Mr. Dorman William Whittom sailed from San Francisco on the steamship *Lurline* in May of 1941 bound for Wake Island by way of Honolulu, Oahu, T. H. He arrived at Wake Island in October of 1941, where he was employed as an ornamental-iron worker in connection with the construction of naval airbases in the Pacific area. He worked at Wake Island until December 23, 1941, when he became a captive of the Japanese Imperial Navy. Mr. Whittom was held as a prisoner on Wake Island until January 12, 1942, when he was transported to Woo Sung, China, on the steamship *Nita Maru*. Mr. Whittom was held prisoner in China, first at Woo Sung and then at King Wan, for a total period of about 18 months. Next he was taken by naval transport to work in the Kawasaki steel mills where he re-

mained until about 1 week before Easter of 1945. At that time he was transferred to the open-pit iron mines in the northern part of Japan, where he remained until the end of the war.

At the war's end it proved impossible to remove the group at these mines for about a month since the roads were damaged. During that time these former prisoners were supplied food and clothing by airdrop from United States airplanes. After that period the group was taken to Sendai and taken aboard the hospital ship U. S. S. *Rescue*, which took them to San Francisco, arriving there on October 5, 1945.

Mr. Whitton was suffering from beri-beri due to malnutrition on his arrival in the United States, and was taken from the ship on a stretcher. Even after he arrived home, he continued under medical care for this condition, and was treated by Dr. Ward, of Boise, Idaho, for a year after he had arrived home in Caldwell, Idaho.

The War Claims Act of 1948 referred to in the bill provided for the payment of detention benefits to those civilian American citizens who had been interned by Imperial Japanese Forces as a result of their capture on or after December 7, 1941, at Midway, Guam, Wake Island, the Philippines, or other designated places. The actual effect of H. R. 9608 would be to waive the claim-filing period requirements in Mr. Whitton's case, and this committee feels that there are circumstances present in connection with his case which clearly justify such relief.

It is observed, in the report of the Foreign Claims Settlement Commission to this committee on the bill, that the Commission had no way of identifying or locating the persons who were entitled to benefits under the War Claims Act of 1948. That Commission, therefore, sought to publish the information concerning application for the benefits by means of the press, radio, and various veteran and internee organization publications. However, during this period Mr. Whitton was working in places where such forms of publicity either did not exist or the places were of a sort which would not be reached in the normal course of events. His first job, after his health permitted his going back to work, was in Cascade, Idaho. That town has a population of about 1,000. The town had a small weekly newspaper. In the period from the spring of 1948 through 1949, Mr. Whitton was employed by Rare Earths, Inc., of McCall, Idaho, and worked at Idaho City, Idaho, which was a town of about 270 persons. He lived about 5 miles from town in a camp which had no radio, telephone, or newspaper. He was engaged in dismantling a mining dredge which was moved to Burgdorf, Idaho. Burgdorf was a place having a population of about 10 persons.

Mr. Whitton spent the years of 1950, 1951, and 1952, and until June of 1953, in McCall, Idaho, a town of 875 population. Its small weekly newspaper did not, as far as Mr. Whitton knows, carry the information concerning the legislation. In June of 1953, he moved his family to Oak Harbor, Wash., on Whidbey Island. That town had a population of 375. Finally, in August of 1954, he moved his family to Anacortes, Wash., a town of 6,000 located on Fidalgo Island. Its small daily newspaper does not ordinarily carry legislative items of this sort, as far as Mr. Whitton has been able to ascertain.

Mr. Whitton learned of his eligibility for benefits while visiting an old prisoner-of-war friend while on a vacation in 1957. However, this was long after claims could be filed. Under Public Law 75 of

the 81st Congress, the period to file had last been extended to March 31, 1952.

Since the committee has found that the facts detailed above sufficiently explain Mr. Whitton's failure to file, the committee recommends that the bill be considered favorably.

FOREIGN CLAIMS SETTLEMENT COMMISSION,
Washington, D. C., February 5, 1958.

HON. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.*

DEAR MR. CELLER: This refers further to your request for the views of this Commission on the bill, H. R. 9608, a bill for the relief of Dorman William Whitton.

The enactment of this bill, in its present form, would authorize this Commission to consider the claim of Mr. Dorman William Whitton for civilian-detention benefits under section 5 (a) through (e) of the War Claims Act of 1948, as amended, as if he had filed a claim therefor within the time prescribed in that act for the filing of such claims. Payment of any such claim, if certified for payment, would be made by the Secretary of the Treasury from the war claims fund.

Section 5 (a) through (e) of the act authorized this Commission or its predecessor, the former War Claims Commission, to provide for the payment of detention-benefit claims by civilian American citizens 18 or more years old, at the rate of \$60 per month for each calendar month or fraction thereof, during which they were interned by Imperial Japanese Forces as a result of their capture on or after December 7, 1941 at Midway, Guam, Wake Island, the Philippines or in any United States Territory or possession that was invaded, or while in transit to or from these areas. A detention status was also recognized in the act if such civilian went into hiding at any such place to avoid capture. Excluded from eligible beneficiaries were individuals who collaborated with the enemy, and members of the Armed Forces of the United States.

The net effect of enactment of H. R. 9608 would be to permit a waiver of the claim-filing-period requirements in the case of Mr. Whitton. In this connection, the bill is similar to S. 2885, which would extend the same waiver to another individual who also failed to file a claim under section 5 (a) through (e) within the period prescribed therefor.

This Commission has a record of 102 potentially eligible claimants under the original provisions of section 5 (a) through (e) of the act who did not file their claims on or before March 31, 1952, as required by the law. In view of this, your committee may wish to consider whether they, too, should be given the opportunity of filing claims at this time.

In this connection, the amount of such claims and the source of their payment must be considered. The average payment on timely filed claims upon which awards issued was \$1,477. Applying this average to the 102 late-filed claims would require the sum of \$150,654, exclusive of approximately \$5,000 for administrative expenses. Pay-

ments heretofore made on such claims were derived from the war claims fund, as required by the act. There are no unobligated balances in this fund at the present time from which payments of additional civilian-internee claims could be paid without new transfers from the liquidated proceeds of enemy vested assets by the Attorney General.

When the Congress prescribes a period of time for the performance of a given act, it is inevitable that some individuals, through the lack of diligence or knowledge of such requirements, will fail to comply with them. In the present case, potential claimants, including Mr. Whittom, were originally given approximately 18 months from July 3, 1948, to March 1, 1951, to file claims under section 5 (a) through (e) of the act. Under Public Law 75, 81st Congress, this period was extended to March 31, 1952. It has not since been extended.

Section 2 (c) of the act (now sec 2 (b)) required the former War Claims Commission to advise all potentially eligible claimants of their rights under the act. The Commission, of course, had no way of identifying or locating these persons in order to serve them with individual notices. For that reason, it attempted to reach them through the press, radio, and various veteran and internee organization publications. The success of these efforts is borne out in the fact that only 102 claims out of 23,300 were filed after the final statutory deadline.

The question of whether, under the foregoing circumstances, Mr. Whittom should be singled out for special relief is, of course, a matter of legislative policy upon which this Commission cannot properly comment. Accordingly, the Commission takes no position with respect to the enactment of the subject bill, H. R. 9608.

Advice has been received from the Bureau of the Budget that there would be no objection to the presentation of this report to your committee.

Sincerely yours,

WHITNEY GILLILLAND, *Chairman.*

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